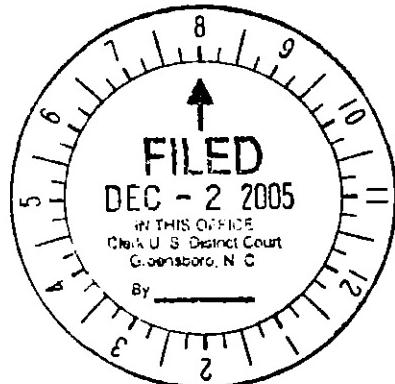


UNITED STATES DISTRICT COURT  
Middle District of North Carolina

JACK D. WINSTEAD, )  
Plaintiff, )  
 )  
v. )  
 )  
JO ANNE B. BARNHART, )  
Commissioner of Social Security, )  
Defendant. )

#1:04CV973



O-R-D-E-R

On October 4, 2005, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and served on the parties in this action and a copy was given to the court.

Within the time limitation set forth in the statute, counsel for Plaintiff objected to the Recommendation.

The court has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

**IT IS THEREFORE ORDERED** that the Plaintiff's motion for summary judgment [Pleading no. 8] be **DENIED**, that the Commissioner's motion for judgment on the pleadings [Pleading no. 10] be **GRANTED**, that the

Commissioner's decision is **AFFIRMED**, and that this action be dismissed with prejudice. A Judgment dismissing this action will be entered contemporaneously with this Order.

  
UNITED STATES DISTRICT JUDGE ✓

DATE: December 2, 2005